IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 69 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R.SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HASMUKH BUILDERS - Appellant(s)
Versus
PURIBEN W/O. RAMESHBHAI KESHUBHAI VAGHELA & 3 - Defendant(s)

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Appearance :
MR CHIRAG M PAWAR for Appellant(s) : 1,
MR MK PATEL for Defendant(s) : 1,
MR BIREN A VAISHNAV for Defendant(s) : 1,
None for Defendant(s) : 2 - 3.
DELETED for Defendant(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R.SHAH

Date : 26/04/2007

ORAL JUDGMENT

1. Admit. Shri Biren Vaishnav, learned advocate waives service of notice on behalf of the

respondent No.1 herein - original claimant, who is the main contesting party.

2. With the consent of the learned advocates appearing for the parties, present appeal is taken up for final hearing as there is some consensus between the parties to remand the matter to the learned Commissioner for Workmen Compensation on payment of costs, which is quantified at Rs. 5000/-, which the learned counsel appearing for the appellant has agreed to pay.

3. Present appeal has been filed challenging the ex-parte judgment and order passed by the learned Commissioner for Workmen Compensation, Ahmedabad dated 16.2.2006 passed in Workmen Compensation Case No. 15/1995. Shri Vaishnav, learned advocate appearing for the respondent No.1 – original claimant has submitted that if the matter is remanded, the respondent No.1 would not have any objection, however, the costs is to be paid and the direction be issued directing the learned Commissioner for Workmen Compensation to decide

and dispose of the claim application as early as possible as the Workmen Compensation Case is of 1995.

4. Considering the above and with the consent of the learned advocates appearing for the parties – appellant as well as the respondent No.1 – original claimant, the ex-parte judgment and order passed by the learned Commissioner for Workmen Compensation, Ahmedabad dated 16.2.2006 passed in Workmen Compensation Case No. 15/1995 is hereby quashed and set aside, however, the appellant is directed to pay the costs of this appeal and also for setting aside the ex-parte judgment and order to the respondent No.1 – original claimant which is quantified at Rs. 5000/- which the learned counsel appearing for the appellant has agreed to pay. The said amount to be paid to the respondent No.1 – original claimant by Account Payee Cheque within a period of two weeks from today. The matter is remanded to the learned Commissioner for Workmen Compensation, Ahmedabad for deciding the same afresh in accordance with law and on merits and

the learned Commissioner for Workmen Compensation is hereby directed to decide and dispose of the Workmen Compensation Case No. 15/1995 within a period of three months from the date of receipt of this order. The appellant herein is directed to cooperate the learned Commissioner for Workmen Compensation for early disposal of the aforesaid Workmen Compensation Case No. 15 of 1995. It is observed that if the amount of cost which is quantified at Rs. 5000/- is not paid to the respondent No.1 – original claimant within a period of two weeks from today, in that case, this appeal will be treated as dismissed and the present order will not hold good.

5. With these, present appeal is allowed to the aforesaid extent.

[M.R.Shah, J.]

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